

system, all construction permit applications. She states that she has had little supervision from her supervisor and has always taken in permit applications from submission to issuance of final certificates, and that her supervisor does not review her work. The appellant provides two letters of recommendation from coworkers, a Plumbing Subcode Official for Ocean County and a Code Enforcement Officer/Zoning Officer.

In response, the appointing authority, represented by Charles Schlager, Jr., Esq., states that the duties have not changed from the previous review. It argues that any expectation of promotion in 2013 from her temporary position as Clerk 1 should have extinguished when the incumbent Technical Assistant to the Construction Official did not retire at that time. It states that possession of a certification or past employment has no bearing on this matter, and that it did not intend to promote the appellant. Upon retirement of the supervisor, it hired a new employee as Technical Assistant to the Construction Official. In that process, it interviewed the appellant along with other candidates and found that the appellant was not the most qualified. It maintains that the letters of recommendation from individuals who do not supervise the position reflect personal opinions of the appellant's proficiencies and competence, but do not exhibit actual knowledge of the duties and responsibilities of the position. The appointing authority states that the classification review indicates that the supervisor established that "any action, duty, or task performed by Ms. Kelly was at their direction and under their supervision," and any duties performed at their direction was on an as-needed basis. It states that the appellant is not "training" the new Technical Assistant to the Construction Official, who has ten years of prior experience, but is "showing her the ropes" as is generally required of any long-term employee.

CONCLUSION

N.J.A.C. 4A:3-3.9(e) states that in classification appeals, the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

The definition section of the job specification for Clerk 2 states:

Under limited supervision, performs clerical work involving the processing of documents in a variety of functions; performs moderately complex and non-routine clerical work; may provide guidance and assistance to other staff; does other related duties as required.

The definition section of the job specification for Technical Assistant to the Construction Official states:

Under direction, provides technical assistance in the issuance of construction permits to ensure compliance with the provisions of the New Jersey Uniform Construction Code and model codes; does other related duties.

At the outset, it is noted that the appellant's PCQ was not completed properly. The PCQ requests the incumbent to describe the detail of the work, make clear descriptions so that persons unfamiliar with the work could understand exactly what is done, and provide a percentage of time and the order of difficulty for each of the duties. The percentages of time should add up to 100%, which accounts for all work time. The appellant listed 2 duties, one performed 95% and which included approximately 19 duties, listed as 1 in order of difficulty, and one duty performed 5% of the time and listed as 2 in order of difficulty. Someone hand-wrote an order of difficulty for each task. Nevertheless, the amount of time the appellant performed each duty could not be analyzed given the information provided.

The major focus of positions classified as Technical Assistant to the Construction Official is providing technical assistance in the issuance of construction permits to ensure compliance with the provisions of the New Jersey Uniform Construction Code and model codes. Incumbents spend a majority of their work time reviewing applications for construction permits to ensure all necessary information and documents are included and requesting additional information; issuing construction permits after approval and authorization have been granted by the appropriate Sub-Code official; providing information of a technical nature to the general public; calculating routine fees, and collecting fees and penalties as directed; determining and requesting prior approvals and plan reviews; determining the type of certificate required at job conclusion; consulting with solicitors, architects, owners, and contractors on compliance problems; reviewing inspection logs for overdue inspections, and taking appropriate action for non-compliance, among other actions.

The question herein is which job specification definition do the appellant's duties more closely match, as classification determinations are based on the *primary functions* assigned to the position. A classification is not based on ancillary or intermittent duties. The appellant's PCQ indicates that the major goals of the position are to receive permit applications and review them for completeness; provide status of their applications and collect fees; respond to general inquiries; file permits and information, maintain forms, and transfer information to databases; and receive and distribute mail and correspondence. As indicated by Agency Services, the duties of the position include reviewing applications for completeness, but do not include providing technical assistance or evaluation of compliance for construction permits. As such, the duties do not encompass the scope of responsibilities of the requested title. While the appellant may perform

some duties of a Technical Assistant to the Construction Official, the primary duties of the position more closely resemble the processing of documents in a variety of functions, performing moderately complex and non-routine clerical work, and providing guidance and assistance to other staff. It is noted that how well or efficiently an employee does her job, length of service, volume of work and qualifications have no effect on the classification of a position currently occupied, as *positions*, not employees are classified. See *In the Matter of Debra DiCello* (CSC, decided June 24, 2009).

Accordingly, a thorough review of the entire record fails to establish that the appellant has presented a sufficient basis to warrant a Technical Assistant to the Construction Official classification of her position.

ORDER

Therefore, the position of Laurie Kelly is properly classified as Clerk 2.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 21ST DAY OF JULY, 2021

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